

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **PLANNING AND ZONING REGULAR MEETING MINUTES**

*Town Commission Meeting Room*

*Thursday, June 7, 2012*

*6:30 P.M.*

### **I. CALL TO ORDER**

Vice - Chairperson David Chanon called the meeting to order at 6:30 p.m. Members present were William Brady, Avi Braverman, Patrick Murphy and first alternate Eric Yankwitt. Also present were Town Planner Linda Connors, Assistant Town Attorney Kathryn Mehaffey. Deputy Town Clerk Glenn McCormick was present to record the minutes of the meeting.

### **II. PLEDGE OF ALLEGIANCE TO THE FLAG**

The Pledge of Allegiance was recited.

### **III. APPROVAL OF MINUTES - Planning and Zoning Meeting of May 16, 2012**

The approval of the May 16, 2012, minutes was deferred to the July 2012 Planning and Zoning meeting.

### **IV. PUBLIC COMMENTS**

There were no public comments.

### **V. TOWN PLANNER REPORT**

There was no Town Planner report.

### **VI. NEW BUSINESS**

#### **Item #1: Proposed Amendments to Chapter 30 to Develop Pier Parking Standards.**

Town Planner Connors discussed the subject item as detailed in the backup, noting staff's research and studies revealed a standard of one parking space per 1,000 square feet was an acceptable standard for pier parking that could require the current pier to have 16 spaces, as illustrated in Table One of the staff report contained in the backup. The ordinance, along with the P&Z Board's recommendations, would be presented to the Commission at their June 26, 2012, for first reading; the second reading would be set for July 24.

Mr. Brady asked Town staff to give the Board a feeling for what kind of population they witnessed utilizing the pier at the time of the study.

Town Planner Connors apologized for not having that information readily available, as the survey was conducted prior to her employment with the Town. The survey indicated there were 12 to 18 cars used on a regular basis, and that figure was used to determine the standard.

Mr. Brady wished to get a feel for how many people typically used the pier at any given time.

Town Planner Connors commented it would be pier only, not including the restaurant or the tackle shop.

Vice Chairperson Chanon asked if the study was done over a period of multiple days and times, and what time of year was it done, wondering if seasonality was also considered.

Town Planner Connors indicated she would have to gather and bring back the information on the study. It was not a formal study where the Town hired a consultant to do a parking analysis. It was more of staff going to the pier at different days and times, asking people how many were in their party, did they park to come to the pier or were they visiting other sites and going to pier as part of a multi-visit trip. She was uncertain as to what time of the year the study was completed.

Vice Chairperson Chanon supported the idea of reducing the intensity of the area of required parking for a pier-type use, as he thought it unnecessary to have a four or five parking spaces per 200 square foot ratio, assuming that a number of the people at the pier walked rather than drove there.

Chairperson Oldaker opened the discussion to the public.

William Beggs, legal representative for Fisherman's Pier, Inc., stated his clients' position was the pier was a conforming use when it was built, and there was no parking requirement at that time nor had there been one over 50 years. In 2011, they were told by Town staff the pier was exempt from such requirements, and they believed the pier had been grandfathered in. He said to try to figure out how many people went onto the pier was difficult, as it was not a destination site, as people who patronized the area hotels, restaurants and stores often walked out on the pier. They believed neither the pier itself, the bait and tackle shop, nor the small cafe should have a parking requirement, as the bait and tackle shop was where people paid to go onto the pier. He agreed there should be a parking requirement for the decks out front, as they were not part of the original pier and were relatively new, and the total area of that was about 700 square feet, of which some 200 was the service area, leaving 500 square feet subject to a parking requirement.

Mr. Braverman noticed just in front of the pier was a small parking lot, wondering who operated that lot.

Mr. Beggs responded Fisherman's Pier, Inc., owned the lot, and it was built for the convenience of those fishermen and other people going onto the pier.

Mr. Braverman inquired if it was valet parking.

Mr. Beggs answered not at the moment, but they were thinking about valet parking for the future.

Mr. Braverman asked how many parking spaces fit into that area.

Mr. Beggs believed it to be 42 spaces, but some of the spots were reserved for the tenants of the nearby stores, and it was self-parking. The actual ownership was the Anglin Trust, and Fisherman's Pier was on a lease for the past 50 years and owned one 50-foot wide area in the middle of the parking lot.

Mr. Braverman questioned if 18 cars could fit into the existing lot.

Mr. Beggs replied absolutely, mentioning only a small portion of the building to the east end of the tackle shop was actually on Town property; the rest was all under estate lease.

Chairperson Oldaker wished to know what brought about the change in how Town staff viewed the pier after 50 years.

Town Planner Connors stated the aim was to bring forward to the Board a standard for pier parking, as one did not exist. If the existing pier was destroyed or an addition made to it or another pier was built, there would be no standard for determining the number of parking spaces. Whether or not the parking standard the Town established applied to the existing pier was a policy decision for the Town Commission and administration. Town staff, therefore, was not asking the Board to consider the historical usage or whether the parking standard should be applied to the existing pier; staff was asking the Board if it believed that one parking space per 1,000 square feet was a reasonable parking standard for pier parking as they recommended in the amendment to the Town's code.

Mr. Murphy inquired if it took only a certain amount of parking spots for the pier, what would be those intended uses that Town staff referred to in their presentation as "future uses" for the parking lot.

Mr. Beggs responded one of the uses would be valet parking. However, at present, there were no solid numbers as to what the standard requirement should be, as no formal survey had been conducted, and the data supplied by Town staff was informal information on which to establish rules and regulations that affected properties for a long time.

Town Planner Connors noted her presentation only used the existing pier as an example to demonstrate to the Board what the standard would be for a pier. If there were no standards and a new pier was built, Town staff would follow uses not specifically mentioned, and that would require one parking space per 200 square feet or 73 spaces, and based on their informal study, it appeared one space per 1,000 square feet or 16 spaces was more appropriate. It was not the Planning and Zoning Board's job to determine whether the existing pier would fall under the standard Town staff sought to establish for piers.

Mr. Murphy read Mr. Yankwitt's comment, as Mr. Yankwitt was suffering from laryngitis. In his written comment, Mr. Yankwitt intimated he served on the Planning and Zoning Board when the Board allowed the amendment to increase the pier's ability to have an outside area, and there was no parking requirement at that time. It appeared the Board induced the pier to build an additional area and then reneged, and this was not the case; and he was concerned there might be a lawsuit. The existing pier should not be subject to any parking requirements.

Vice Chairperson Chanon felt the Board's job was not to rule on whether the proposed amendment should affect the existing pier; based on Town Planner Connors' direction, the Board was voting to establish an additional parking requirement category for piers that was absent in the current code, and those standards would apply to future piers. Thus, the question was whether the Board thought staff's informal study yielded results that adequately justified creating a category for piers in the Town's current parking space code.

Mr. Braverman asked if there was any precedent for existing structures or businesses to "after the fact" change or add parking standards.

Assistant Town Attorney Mehaffey replied there was a principle in nonconforming land use law that stated once a structure was built, if a standard was added and a preexisting structure or facility did not meet that new standard, that structure became a legal, nonconforming use. The structure or facility did not have to comply with the new standard, as it existed prior to the standard being established. She added the next step was that a legal, nonconforming use could not increase its legal nonconformity; that is, make that nonconforming use more severe, and if they did anything to decrease that nonconformity, they could not then increase the nonconformity back to its original state.

Mr. Braverman questioned if the existing pier was a legal, nonconforming use.

Assistant Town Attorney Mehaffey responded that had yet to be determined, and it might depend to some extent on what the finally approved parking requirement standard for piers was determined to be, but this was not the matter before the Board. However, if it was later determined that the pier did not meet whatever pier parking standards were adopted, the pier would only be considered a legal, nonconforming use if the number of spaces in the existing lot did not meet the parking space requirement for piers.

Vice Chairperson Chanon observed the Board would all agree that if a new pier were built, a zero parking ratio would not be reasonable. He asked Town Planner Connors if she thought Town staff's survey provided sufficient data to justify the subject amendment.

Town Planner Connors felt the parking standards that would apply to a new pier if no new category for piers were added to the existing code would be inadequate, one space per 200 square feet for a structure that could be 1,500 square feet was more than a little excessive. She believed one space per 1,000 square feet was adequate and reasonable.

Mr. Brady concurred.

Mr. Beggs thought establishing a parking standard for pier parking was unnecessary, as it was highly unlikely anyone would build a new pier in the Town, and to subject his clients to a standard they might be held subject to without formally established data was erroneous. He asked the Board to defer its decision on whether to approve the subject amendment, reiterating the difficulty to establish the need for pier parking, as the number of people on the pier was not indicative of the number of cars.

Mr. Brady made a motion to approve Item #1 as recommended by Town staff, but the motion failed for lack of a second.

Chairperson Oldaker (?) remarked, ultimately, the question came down to if the data was sufficient to justify Town staff's recommendation. He thought Mr. Beggs made a reasonable point. However, Town staff sought to establish a parking standard for piers, and although another pier might never be built, the existing pier could be destroyed by a hurricane and they would then be held to the pier parking standard if approved.

Vice Chairperson Chanon (?) felt unsure it was possible to get adequate information without spending considerable funds trying to determine the use of the pier by people who would utilize parking spaces. Town staff's aim was to set a basic standard, and that was a reasonable goal.

Mr. Brady made a motion, seconded by Vice Chairperson Chanon (?) to approve Item #1 as recommended by Town staff to include the following: amendment to Section 30-318 of the Town's code in the language pertaining to pier parking standard: one parking space for each 1,000 square feet of pier. The motion carried 3-2. Mr. Braverman and Mr. Yankwitt voted no.

**VII. OLD BUSINESS**

None

**VIII. BOARD MEMBER COMMENTS**

None

**IX. ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at 8:05 p.m.

ATTEST:

\_\_\_\_\_  
Chairman Alfred Oldaker

Date Accepted: \_\_\_\_\_

Glenn McCormick, Board Secretary

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